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Counsel for Defendant Google LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, et al., on behalf of
themselves and all others similarly situated,

Plaintiff,

vs.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC'S NOTICE REGARDING
THE AUGUST 4 HEARING AND STEPS
TAKEN TO ENSURE COMPLIANCE
WITH THE PRESERVATION ORDERS**

Referral: Hon. Susan van Keulen, USMJ

1 Google submits this filing to notify the Court of an inadvertent factual misstatement its
2 employee representative made at the August 4, 2022 hearing addressing various preservation
3 issues. During the hearing Google's employee, Dr. Berntson, informed the Court that the lifetime
4 of the vast majority of data in Google's [REDACTED] database was [REDACTED], which he believed was
5 accurate at the time of the hearing based on his own knowledge and the research he did to prepare
6 for the hearing. The Court relied on that representation in granting Google's request for an
7 extension of time to implement the data preservation pipeline for [REDACTED]. See Dkt. 657 (Order on
8 Motions for Extension/Clarification of Preservation Plan Orders) at 10. Since then, in working on
9 the relevant preservation pipelines, it was determined that this [REDACTED] retention period did not
10 apply to as much data in [REDACTED] as Google initially understood. In light of that discovery, Google
11 immediately began taking proactive steps to ensure that the relevant data since July 30 would be
12 preserved per the Court's order. While this misstatement should not affect Google's ability to
13 preserve the data consistent with the Court's order, Google wanted to advise the Court of the issue
14 and explain the situation promptly.

15 At the August 4 hearing, the Court asked questions of Google's counsel and employee
16 representatives on various technical subjects relating to the data sources at issue in the Court's
17 preservation orders. Dr. Glenn Berntson, who is an Engineering Director and Lead of the Google
18 Ad Manager team, attended the hearing on behalf of Google to help answer the Court's questions.
19 See Declaration of Glenn Berntson, ¶¶ 1-2. Dr. Berntson diligently prepared in advance of the
20 hearing. *Id.* ¶ 3. At the hearing, among other topics, Dr. Berntson answered questions regarding
21 the length of time that data is stored in the [REDACTED] database, stating that data in [REDACTED] that is keyed off of
22 user *Ids* can be stored for different amounts of time, but the vast majority of it is stored in those
23 databases for [REDACTED]. *Id.* ¶ 4. Dr. Berntson made this statement based on his extensive
24 knowledge of and experience with the [REDACTED] storage space. *Id.*

25 Subsequent to the hearing, in the course of developing the data preservation pipelines for
26 the [REDACTED] database, Google has discovered that Dr. Berntson's statement was inaccurate in relation to
27 [REDACTED]. *Id.* ¶ 5. Based on the tools available to Google, it estimates that approximately [REDACTED] of GAIA-
28 keyed data and approximately [REDACTED] of DBL-keyed data is stored in [REDACTED] for at least [REDACTED]. *Id.*

1 As described in Dr. Berntson's declaration, Google's ability to measure the amount of time that
2 data will be stored in [REDACTED] is limited in certain respects. *Id.* ¶ 7. In particular, data may be stored in
3 columns that are subject to event-based limitations, rather than time-based limitations. *Id.* For
4 data that is subject to an event-based limitation, Google does not have a readily available method
5 to estimate the amount of time the data will be stored. *Id.*

6 Dr. Berntson and Google immediately investigated and have identified steps that Google is
7 taking to ensure that it will be able to comply with the Court's orders. *Id.* ¶ 8. Specifically, Google
8 will retain an [REDACTED] backup that was created in the ordinary course of business on July 30, 2022, and
9 will retain intermittent backups while the data preservation pipelines are in development. *Id.* These
10 backups will include columns that are subject to time-based and event-based limitations, and
11 Google's analysis of the data subject to time-based limitations has confirmed that approximately
12 [REDACTED] of the data that is subject to such a limit in GAIA [REDACTED] and DBL [REDACTED] will be preserved. *Id.*
13 While these backups will not retain certain data that is subject to a short lifetime, this is consistent
14 with the examples of short-lived data that Dr. Berntson described at the hearing as not being
15 preserved with a [REDACTED] retention period.

16 Google believes that the remedial steps outlined above and described in Dr. Berntson's
17 attached declaration will allow Google to be able to comply with the Court's order. Google will of
18 course provide additional information upon request, should the Court have any further questions
19 regarding these issues.

1 DATED: August 29, 2022

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